

AMENDED IN ASSEMBLY MAY 22, 2012

AMENDED IN ASSEMBLY JULY 14, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 249

Introduced by Senator Yee

(Principal coauthor: Assembly Member Ma)

February 10, 2011

An act to ~~add Section 4132 to the Food and Agricultural~~ amend ~~Section 31100 of, to amend, repeal, and add Section 30800 of, and to add Sections 30527 and 30618 to, the Penal Code, relating to district agricultural associations firearms.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as amended, Yee. ~~District agricultural associations: 1-A District Agricultural Association: facilities. Firearms: assault weapon conversion kits.~~

Existing law, with certain exceptions, prohibits the possession of an assault weapon, as defined, and makes violations subject to criminal penalties.

This bill would, commencing July 1, 2013, and with certain exceptions, prohibit any person from importing, making, selling, loaning, transferring, or possessing any conversion kit, as defined, designed to convert certain firearms with a fixed magazine into firearms with the capacity to accept a detachable magazine and other features making the firearm an assault weapon and would make violations subject to criminal penalties. By creating new crimes, this bill would impose a state-mandated local program.

Existing law makes possession of an assault weapon a public nuisance, authorizes the Attorney General, district attorney, or city attorney to bring a civil action to enjoin possession of the weapon, authorizes imposition of a civil fine, and, with certain exceptions, requires disposition of the weapon by sale at public auction or by destruction.

This bill would, commencing July 1, 2013, make possession of a conversion kit a public nuisance, would authorize a civil action to enjoin possession of a conversion kit, would authorize imposition of a civil fine, and, with certain exceptions, would, similarly, require disposition of the conversion kit.

Existing law authorizes a person to arrange in advance to relinquish an assault weapon to a police or sheriff's department.

This bill would authorize a person to arrange in advance to relinquish a conversion kit to a police or sheriff's department.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law divides the state into district agricultural associations for the purposes of, among other things, holding fairs and expositions exhibiting all of the industries and industrial enterprises, resources, and products of every kind or nature of the state with a view toward improving, exploiting, encouraging, and stimulating those industries. Existing law provides that the 1-A District Agricultural Association governs the agricultural district that encompasses the County of San Mateo and the City and County of San Francisco.~~

~~This bill would require the 1-A District Agricultural Association, 30 days before final approval of the use of a facility that is owned or leased by the association by any exhibitor that is not a public entity, to submit to the City and County of San Francisco, the City of Daly City, and the San Mateo County Manager a complete and detailed written description of the proposed event, including a specified risk assessment. The bill would require the association to include in the contract with the exhibitor, or as an addendum to a contract, a provision requiring the exhibitor to assume all financial liability for the event. The bill would also require that the exhibitor reimburse the jurisdictions surrounding the facility for the actual costs of emergency services incurred as a result~~

of or caused by the event held at the facility. The bill would also require the association to enforce this bill by requiring a sufficient security bond or other guarantees from the exhibitor that are acceptable to the jurisdictions surrounding the facility and the board of the association.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30527 is added to the Penal Code, to
2 read:
3 30527. (a) As used in this chapter a “conversion kit” means
4 either of the following:
5 (1) Any combination of parts that, when affixed to a firearm
6 with a fixed magazine, are designed and intended to convert that
7 firearm into an assault weapon as defined by one of the following:
8 (A) Paragraph (1) of subdivision (a) of Section 30515.
9 (B) Paragraph (4) of subdivision (a) of Section 30515.
10 (C) Paragraph (7) of subdivision (a) of Section 30515.
11 (2) Any part that, when affixed to a firearm with a fixed
12 magazine, is designed solely and exclusively to convert that firearm
13 into an assault weapon as defined by one of the following:
14 (A) Paragraph (1) of subdivision (a) of Section 30515.
15 (B) Paragraph (4) of subdivision (a) of Section 30515.
16 (C) Paragraph (7) of subdivision (a) of Section 30515.
17 (b) This section shall become operative on July 1, 2013.
18 SEC. 2. Section 30618 is added to the Penal Code, to read:
19 30618. (a) No person shall import into this state, make, sell,
20 loan, transfer or possess a conversion kit.
21 (b) For purposes of this article, if more than one conversion kit
22 is involved in any violation of this article, there shall be a distinct
23 and separate offense for each violation.
24 (c) The provisions of this section are cumulative and shall not
25 be construed as restricting the application of any other law.
26 However, an act or omission punishable in different ways by
27 different provisions of law shall not be punished under more than
28 one provision.
29 (d) Subdivision (a) shall not apply to or affect any of the
30 following:

1 (1) *The sale to, transfer, to or loan to, importation of, or*
2 *possession of a conversion kit by the Department of Justice, police*
3 *department, sheriffs' offices, marshals' offices, the Department of*
4 *Corrections and Rehabilitation, the Department of the California*
5 *Highway Patrol, district attorneys' offices, the Department of Fish*
6 *and Game, the Department of Parks and Recreation, or the military*
7 *or naval forces of this state or of the United States, or any federal*
8 *law enforcement agency for use in the discharge of their official*
9 *duties.*

10 (2) *The transfer by or loan by the entities listed in paragraph*
11 *(1) of a conversion kit to sworn peace officer members of those*
12 *agencies for law enforcement purposes.*

13 (3) *The possession of conversion kits by sworn peace officer*
14 *members of those agencies specified in paragraph (1) for law*
15 *enforcement purposes.*

16 (4) *The manufacture of, possession of, or importation of a*
17 *conversion kit by any person who is issued a permit pursuant to*
18 *Section 31005.*

19 (5) *The sale by, loan of, or transfer of a conversion kit by a*
20 *person who is issued a permit pursuant to Section 31005 to any*
21 *of the following:*

22 (A) *Exempt entities listed in paragraph (1).*

23 (B) *Entities and persons who have been issued permits pursuant*
24 *to Section 31005.*

25 (C) *Federal military and law enforcement agencies.*

26 (D) *Law enforcement and military agencies of other states.*

27 (E) *Foreign governments and agencies approved by the United*
28 *States State Department.*

29 (6) *A person who is the executor or administrator of an estate*
30 *that includes a conversion kit that is possessed in accordance with,*
31 *and disposed of as authorized by, the probate court, if the*
32 *disposition is otherwise permitted by this section.*

33 (7) *The possession of and sale or transfer of a conversion kit*
34 *by a person incident to relinquishing the conversion kit pursuant*
35 *to Section 31100.*

36 (8) *The transfer by a person authorized to possess a conversion*
37 *kit by this section to any licensed gun dealer for the purposes of*
38 *servicing or repair from any person who is legally entitled to*
39 *possess it pursuant to this section.*

1 (9) *The possession of a conversion kit by any licensed gun dealer*
2 *who received the conversion kit pursuant to paragraph (8).*

3 (10) *The transfer of possession of a conversion kit received by*
4 *any licensed gun dealer pursuant to paragraph (9) to a gunsmith*
5 *for purposes of accomplishing service or repair of that conversion*
6 *kit. A transfer is permissible only to the following persons:*

7 (A) *A gunsmith who is in the dealer's employ.*

8 (B) *A gunsmith with whom the dealer has contracted for*
9 *gunsmithing services.*

10 (11) *The transfer of possession of any conversion kit by any*
11 *person referred to in paragraph (10) to either the licensed gun*
12 *dealer from whom it was received or to a person otherwise referred*
13 *to in paragraph (10).*

14 (12) *The return of any conversion kit initially received by any*
15 *licensed gun dealer pursuant to this section to the person from*
16 *whom he or she received it if that recipient is legally entitled to*
17 *possess that conversion kit pursuant to this section.*

18 (e) *A violation of this section is punishable as follows:*

19 (1) *Where the person imports into this state, makes, sells, loans,*
20 *or transfers a conversion kit, that person shall be punished by a*
21 *fine of one thousand dollars (\$1,000), imprisonment in a county*
22 *jail for a period not to exceed one year, or by both that fine and*
23 *imprisonment.*

24 (2) *In all cases not specified in paragraph (1), as a*
25 *misdemeanor.*

26 (f) *This section shall become operative on July 1, 2013.*

27 SEC. 3. *Section 30800 of the Penal Code is amended to read:*

28 30800. (a) (1) *Except as provided in Article 2 (commencing*
29 *with Section 30600), possession of any assault weapon or of any*
30 *.50 BMG rifle in violation of this chapter is a public nuisance,*
31 *solely for purposes of this section and subdivision (c) of Section*
32 *18005.*

33 (2) *The Attorney General, any district attorney, or any city*
34 *attorney, may, in lieu of criminal prosecution, bring a civil action*
35 *or reach a civil compromise in any superior court to enjoin the*
36 *possession of the assault weapon or .50 BMG rifle that is a public*
37 *nuisance.*

38 (b) *Upon motion of the Attorney General, district attorney, or*
39 *city attorney, a superior court may impose a civil fine not to exceed*
40 *three hundred dollars (\$300) for the first assault weapon or .50*

1 BMG rifle deemed a public nuisance pursuant to subdivision (a)
2 and up to one hundred dollars (\$100) for each additional assault
3 weapon or .50 BMG rifle deemed a public nuisance pursuant to
4 subdivision (a).

5 (c) Any assault weapon or .50 BMG rifle deemed a public
6 nuisance under subdivision (a) shall be destroyed in a manner so
7 that it may no longer be used, except upon a finding by a court, or
8 a declaration from the Department of Justice, district attorney, or
9 city attorney stating that the preservation of the assault weapon or
10 .50 BMG rifle is in the interest of justice.

11 (d) Upon conviction of any misdemeanor or felony involving
12 the illegal possession or use of an assault weapon, the assault
13 weapon shall be deemed a public nuisance and disposed of pursuant
14 to subdivision (c) of Section 18005.

15 (e) *This section shall become inoperative on July 1, 2013, and,*
16 *as of January 1, 2014, is repealed, unless a later enacted statute,*
17 *that becomes operative on or before January 1, 2014, deletes or*
18 *extends the dates on which it becomes inoperative and is repealed.*

19 SEC. 4. Section 30800 is added to the Penal Code, to read:

20 30800. (a) (1) *Except as provided in Article 2 (commencing*
21 *with Section 30600), possession of any assault weapon, any .50*
22 *BMG rifle, or any conversion kit in violation of this chapter is a*
23 *public nuisance, solely for purposes of this section and subdivision*
24 *(c) of Section 18005.*

25 (2) *The Attorney General, any district attorney, or any city*
26 *attorney may, in lieu of criminal prosecution, bring a civil action*
27 *or reach a civil compromise in any superior court to enjoin the*
28 *possession of the assault weapon, .50 BMG rifle, or conversion*
29 *kit that is a public nuisance.*

30 (b) (1) *Upon motion of the Attorney General, district attorney,*
31 *or city attorney, a superior court may impose a civil fine not to*
32 *exceed three hundred dollars (\$300) for the first assault weapon*
33 *or .50 BMG rifle deemed a public nuisance pursuant to subdivision*
34 *(a) and up to one hundred dollars (\$100) for each additional*
35 *assault weapon or .50 BMG rifle deemed a public nuisance*
36 *pursuant to subdivision (a).*

37 (2) *Upon motion of the Attorney General, district attorney, or*
38 *city attorney, a superior court may impose a civil fine not to exceed*
39 *one hundred dollars (\$100) for the first conversion kit deemed to*
40 *be a public nuisance pursuant to subdivision (a) and up to fifty*

1 dollars (\$50) for each additional conversion kit deemed to be a
2 public nuisance pursuant to subdivision (a).

3 (c) Any assault weapon, .50 BMG rifle, or conversion kit deemed
4 a public nuisance under subdivision (a) shall be destroyed in a
5 manner so that it may no longer be used, except upon a finding by
6 a court, or a declaration from the Department of Justice, district
7 attorney, or city attorney stating that the preservation of the assault
8 weapon, .50 BMG rifle, or conversion kit is in the interest of justice.

9 (d) Upon conviction of any misdemeanor or felony involving
10 the illegal possession or use of an assault weapon, the assault
11 weapon shall be deemed a public nuisance and disposed of
12 pursuant to subdivision (c) of Section 18005.

13 (e) Upon conviction of any misdemeanor involving the illegal
14 possession or use of a conversion kit, the conversion kit shall be
15 deemed a public nuisance and disposed of pursuant to subdivision
16 (c) of Section 18005.

17 (f) This section shall become operative on July 1, 2013.

18 SEC. 5. Section 31100 of the Penal Code is amended to read:

19 31100. Any individual may arrange in advance to relinquish
20 an assault weapon or a .50 BMG rifle, or a conversion kit to a
21 police or sheriff's department. The assault weapon or .50 BMG
22 rifle shall be transported in accordance with Sections 16850 and
23 25610.

24 SEC. 6. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 ~~SECTION 1. Section 4132 is added to the Food and~~
34 ~~Agricultural Code, to read:~~

35 ~~4132. (a) The 1-A District Agricultural Association shall, 30~~
36 ~~days before final approval of the use of a facility that is owned or~~
37 ~~leased by the 1-A District Agricultural Association by any exhibitor~~
38 ~~that is not a public entity, submit to the City and County of San~~
39 ~~Francisco, the City of Daly City, and the San Mateo County~~
40 ~~Manager a complete and detailed written description of the~~

1 ~~proposed event. The written description shall include a risk~~
2 ~~assessment of possible financial burdens relative to providing~~
3 ~~emergency services that may be placed upon any of the~~
4 ~~jurisdictions surrounding the facility.~~

5 ~~(b) In the contract between the association and the exhibitor, or~~
6 ~~as an addendum to a contract, the 1-A District Agricultural~~
7 ~~Association shall include a provision in which the exhibitor~~
8 ~~assumes all financial liability for the event held at the facility.~~

9 ~~(c) The exhibitor shall reimburse the jurisdictions surrounding~~
10 ~~the facility for the actual costs of emergency services incurred as~~
11 ~~a result of or caused by the event held at the facility. The 1-A~~
12 ~~District Agricultural Association shall enforce this section by~~
13 ~~requiring a sufficient security bond or other guarantees from the~~
14 ~~exhibitor that are acceptable to the jurisdictions surrounding the~~
15 ~~facility and the board of the 1-A District Agricultural Association.~~